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**IN THE  
COURT OF APPEALS OF INDIANA**

JOSEPH A. GALUS, )  
 )  
 Appellant-Petitioner, )  
 )  
 vs. ) No. 46A03-0711-CV-529  
 )  
 MARYCATHERINE GALUS n/k/a )  
 MARYCATHERINE PAPP, )  
 )  
 Appellee-Respondent. )

APPEAL FROM THE LAPORTE SUPERIOR COURT  
The Honorable Kathleen B. Lang, Judge  
Cause No. 46D01-9609-DR-254

**April 28, 2008**

**KIRSCH, Judge**

Joseph A. Galus (“Husband”) appeals the trial court’s judgment ordering him to pay a portion of his child’s post-secondary education expenses. He raises one issue, which we restate as whether the trial court erred in its division of the parental portion of college expenses because the division was not in proportion to the parents’ resources.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

The marriage of Husband and Marycatherine Galus, now Marycatherine Papp (“Wife”), was dissolved in 1997. The marriage resulted in four children, of which only two were still minors at the time of the dissolution. Both Husband and Wife have since remarried. Husband lives with his new wife in Everett, Washington, and Wife lives in LaPorte, Indiana with her new husband and her son. On June 15, 2007, Wife filed a petition for payment of educational expenses due to the fact that their oldest child, Tiffany, was planning to attend Indiana University in August 2007, and educational expenses needed to be apportioned between the parties pursuant to the Indiana Child Support Guidelines.

A hearing was held on this petition on October 1, 2007. At that time, Tiffany was enrolled at Indiana University in the music program. The cost of tuition, room and board, books, and other fees for her education totaled \$16,637.48 per year. She had been awarded \$8,000.00 in scholarships to be applied to her education costs, which left a parental obligation of \$8,637.48. Tiffany did not have any savings of her own, did not apply for any student loans, and did not have a part-time job.

At the time of this petition, Wife had not been employed for about twelve years, and instead, cared for her elderly mother, her grandchildren, and her son. When she was

employed, Wife earned a weekly salary of \$500.00 as a daycare provider. Wife and her husband had accumulated \$60,000.00 in equity in their home and savings of approximately \$16,000.00 in a certificate of deposit. Additionally, she owned several dogs and a horse, and she testified that this hobby cost approximately \$8.00 per week. *Tr.* at 11.

Husband was employed full-time with FedEx and earned \$21.87 per hour and expected to earn around \$48,000.00 in 2007. Husband purchased a home in April 2007 for \$320,000.00 in Washington, which resulted in a monthly mortgage payment of \$1,995.00. He testified at the hearing that he had no equity in the home at that time. *Tr.* at 26. He had savings in the amount of \$1,500.00 at the time of the hearing.

The trial court entered an order apportioning post-secondary education expenses to both parties. It utilized the Indiana Child Support Guidelines Post-Secondary Education Worksheet (“Worksheet”) in doing so. Income was imputed to Wife in the amount of \$300.00 per week, which the trial court specifically found to be the amount representing Wife’s earning potential. The post-secondary expenses remaining after scholarships were ordered split between the parties based upon the ratio obtained from the Worksheet. This resulted in Husband’s annual share being \$6,432.00, which is 74% of the remaining expenses, and Wife’s share being \$2,205.00, approximately 26% of the expenses. Husband now appeals.

## **DISCUSSION AND DECISION**

When reviewing orders for apportionment of college expenses, we do not weigh the evidence or determine witness credibility, and we consider only evidence and reasonable

inferences favorable to the judgment. *Warner v. Warner*, 725 N.E.2d 975, 978 (Ind. Ct. App. 2000). We will affirm the trial court unless its order is clearly erroneous. *Id.* (citing *Carr v. Carr*, 600 N.E.2d 943, 945 (Ind. 1992)). The decision is clearly erroneous if it is clearly against the logic and effect of the facts and circumstances which were before the trial court. *Id.*

Husband argues that the trial court erred in its apportionment of the post-secondary education expenses. He specifically contends that it failed to consider the financial resources of each parent when dividing the parental portion of Tiffany's college expenses because Wife's financial resources were not properly stated on the Worksheet. He claims that because there was an overwhelming disparity in the resources available to the parties, the trial court's apportionment of the expenses did not represent a rough proportionality to the parents' resources.

IC 31-16-6-1(a) discusses the factors to be considered in determining a child support obligation and states, in pertinent part:

[T]he court may order either parent or both parents to pay any amount reasonable for support of a child . . . after considering all relevant factors, including:

- (1) the financial resources of the custodial parent;
- (2) the standard of living the child would have enjoyed if:
  - (A) the marriage had not been dissolved
- ...
- (4) the financial resources and needs of the noncustodial parent.

IC 31-16-6-2(a) provides that, in appropriate cases, the trial court may require the support of a child's post-secondary education. In the determination of this support, a trial court takes into account: (1) the child's aptitude and ability; (2) the child's reasonable ability to

contribute to educational expenses through work, obtaining loans, and obtaining other sources of financial aid; and (3) the ability of each parent to meet these requirements. IC 31-16-6-2(a). Under the Indiana Child Support Guidelines (“Guidelines”), child support, including post-secondary education expenses, is calculated as the share of each parent’s income estimated to have been spent on the child if the parents and child were living in an intact household. Ind. Child Support Guideline 1. Therefore, a “rough proportionality” has been required in the apportionment of college expenses between parents and children. *Warner*, 725 N.E.2d at 978.

Here, the trial court applied the Guidelines to determine how the post-secondary expenses should be apportioned between the parents. When a trial court uses the Guidelines, a rebuttable presumption is created that the amount of the award, which results from their application, is the correct amount to be awarded. *Pond v. Pond*, 676 N.E.2d 401, 411 (Ind. Ct. App. 1997), *trans. granted on other grounds*. The trial court may only deviate from the Guidelines if it articulates factual circumstances supporting a conclusion that application of the Guidelines would be unjust. *Id.* The trial court made no such findings in the present case and, instead, followed the Guidelines and apportioned the post-secondary expenses according to the ratio obtained from the Worksheet. *See Appellant’s App.* at 4-8.

Viewing the evidence most favorable to the judgment, we do not believe that the trial court erred in its apportionment of post-secondary expenses between Husband and Wife. The evidence showed that Husband earned \$21.87 per hour and expected to earn around \$48,000.00 in 2007. He therefore earned approximately \$875.00 a week, which is the amount that the trial court attributed to him on the Worksheet. Because Wife was not

employed, the trial court imputed income of \$300.00 to her. “If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income.” Child Supp. G. 3(A)(3). On a previous Worksheet, Wife’s income was imputed to be \$225.00; the increase reflected on the current Worksheet properly realized the increase in salary that would have occurred in the interim.<sup>1</sup>

Based on their respective incomes, Husband had approximately 74% of the weekly income, and Wife had approximately 26%. Using these percentages, the trial court calculated that Husband should be responsible for 74% of the remaining post-secondary education expenses, which was \$6,432.00, and Wife should be responsible for 26% of these expenses, which was \$2,205.00. These calculations represented a rough proportionality to the parents’ respective incomes. Additionally, the trial court noted that Tiffany received \$8,000.00 in scholarships, which actually represents approximately 48% of her college expenses. Therefore, Husband is actually only responsible for 39% of the total expenses. Husband’s arguments that the trial court improperly considered Wife’s financial resources are merely an invitation to reweigh the evidence, which we cannot do on review. *Warner*, 725 N.E.2d at 978. We conclude that the trial court’s order apportioning the post-secondary expenses between the parents was not clearly erroneous.<sup>2</sup>

Affirmed.

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<sup>1</sup> Husband appears to contend that this imputed income was not correct because Wife made \$500.00 per week when she was previously employed. Although she did earn around \$500.00 in her prior employment, Wife testified that she had not been employed for eleven years, and her prior professional training was now obsolete. *Tr.* at 6, 18. Because of her lack of recent work history and her obsolete training, the trial court did not err in its calculation of Wife’s imputed income.

RILEY, J., and MAY, J., concur.

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<sup>2</sup> We commend the trial court for the thoroughness of its order, which has greatly aided this court in its appellate review.